

**REMARKS**

Claims 1-20 are pending in this application. Claims 1, 5, 9, and 17 are independent claims. Reconsideration and allowance of the present application are respectfully requested.

**Rejections Under 35 U.S.C. § 103 – *Melick in view of Reed***

Claims 1-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Melick (U.S. Patent Publication No. 2001/0047283) in view of Reed (U.S. Patent No. 5,737,609). This rejection is respectfully traversed.

Regarding independent claims 1, 5, 9 and 17, the Examiner asserts Melick teaches all of the claimed limitations with the exception that Melick does not explicitly teach inspection report data including “defect codes for assigning different categories”. The Examiner asserts that Reed teaches “receipt inspection reporting data” which includes “defect codes” for assigning different categories (the Examiner cites column 24, lines 16-30 to support this assertion).

Applicants assert that Reed does not teach “defect codes for assigning different categories, the different categories being a physical category and a document category” pertaining to “a receipt inspection reporting process”, as recited in independent claims 1, 5, 9 and 17. Applicants submit that Reed teaches a method and apparatus for testing a modularized type of software called object-oriented programming (column 3, lines 6-10). Reed’s invention teaches constructs that provide the basis for such object-oriented software (column 3, lines 8-10). The Examiner’s reference to Reed (column 24, lines 16-30), pertains to the types of test output that would be involved in such software testing. Applicants assert that Reed’s unit test outputs are not “defect codes” that involve a “physical category” or a

“document category” for tracking defective packages (equipment, instrumentation and operational systems) involved in construction projects.

In addition to Applicants assertion that Reed does not teach “defect codes” involving a “physical category” and a “document category”, Applicants assert Reed is in no way related to “a receipt inspection reporting process” for tracking packages associated with construction projects, and is therefore nonanalogous art as defined by MPEP §2141.01(a). As stated in §2141.01(a), “In order to rely on a reference as a basis for rejection of an applicant’s invention, the reference must either be in the field of applicant’s endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1446. Further, “A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor’s endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor’s attention in considering his problem.” *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858. Applicant’s art involves tracking construction equipment and packages for large construction projects that enhance interfaces with suppliers, packers, and shippers in order to facilitate the manufacturing, inspection, shipment, handling and storage of such equipment. On the other hand, Reed involves software test output that is being used to test object-oriented programming software. Reed is not “reasonably pertinent to the particular problem” of facilitating the manufacturing and shipment of construction equipment, as Reed pertains only to software testing. It cannot be said that Reed’s software testing “logically would have commended itself” to Applicant’s method of using “defect codes” to categorize the types of defective equipment in a construction project. The mere fact that Applicant’s method may track defective equipment in a computer database, and Reed involves computer software, does not make Reed analogous art. The use of computer databases and software, or the use

of computers generally, is not the focus of Applicants' method of tracking construction equipment and classifying such equipment by "defect codes". Applicant's "defect codes" pertain to the categorization of defective construction equipment, whereas the Examiner's asserted "defect codes" in Reed involve categories of computer software output messages. For this reason, Applicant believes the cited Reed reference to be nonanalogous art.

For at least the reasons stated above relating to independent claims 1, 5, 9 and 17, Applicants believe these claims to be patentable. For at least the same reasons relating to dependent claims 2-4, 6-8, 10-16 and 18-20, Applicants also believe these claims to be patentable.

Therefore, Applicants respectfully request that this rejection of claims 1-20 under 35 U.S.C. §103 be withdrawn.

### **CONCLUSION**

In view of the above remarks and amendments, Applicants respectfully submit that each of the rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

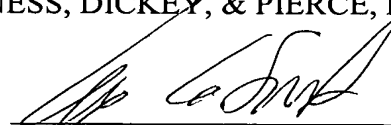
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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